

**UNITED STATES DISTRICT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRUCE MEYERS, et al.
Plaintiffs,

Case No.: 17-cv-10623
Honorable Denise Page Hood

v.

MOTION

VILLAGE OF OXFORD, et al,
Defendants

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**PLAINTIFFS' MOTION FOR ENTRY OF ORDER COMMANDING AN
ANSWER AND ISSUANCE OF CASE MANAGEMENT ORDER**

NOW COMES Plaintiffs BRUCE MEYERS, KALLIE ROESNER-MEYERS, and EUGENIA CALOCASSIDES, by and through counsel, moves for entry of an order to command Defendants to answer the First Amended Complaint and for this Court to issue a Case Management Order. The undersigned has attempted to confer with both Mr. Young and Ms. Brown by telephone on September 18, 2018 and neither were available to discuss the relief sought by this motion. See E.D. Mich. LR 7.1(a).

CONCISE STATEMENT OF THE ISSUES PRESENTED

Should Defendants now answer the First Amended Complaint?

Should this Court issue a Case Management Order?

CONTROLLING / APPROPRIATE AUTHORITY

Fed.R.Civ.P. 12(a)(4)(A)

Fed.R.Civ.P. 16(b)(1)(B)

BRIEF

On August 31, 2017, this Court granted Defendants' Rule 12(b)(6) motion and issued a judgment in their favor. **ECF Nos. 22-23**. Plaintiffs appealed and the Sixth Circuit reversed via a written opinion issued on June 27, 2018, **ECF No. 27**. After the petition en banc was rejected, the mandate issued on August 30, 2018.¹ Since then, Defendants have not answered the First Amended Complaint. The usual practice requires a party-defendant to answer within 14 after denial of a Rule 12(b)(6) motion. Fed.R.Civ.P. 12(a)(4)(A). The Sixth Circuit's mandate effectively does that. As such, an answer is now needed.

In addition, the Eastern District's usual and customary practice is to also issue a "case management order"² setting the deadlines under the case. It is mandatory under the Federal Rules of Civil Procedure that some sort of "scheduling order" be issued normally after a scheduling conference. See Fed.R.Civ.P. 16(b)(1)(B).

¹ "A mandate is the document by which [the Sixth Circuit] court relinquishes jurisdiction and authorizes the originating court or agency to enforce [the Sixth Circuit] court's judgment. 6 Cir. I.O.P. 41(a)(1)

² See <http://www.mied.uscourts.gov/altindex.cfm?pagefunction=practiceguideline&judgeID=14&pgid=4>

RELIEF REQUESTED

WHEREFORE, the Court is requested to command Defendants to file an answer to the First Amended Complaint and issue a case management order needed consistent with Federal Rule of Civil Procedure 16.

Date: September 18, 2018

RESPECTFULLY SUBMITTED:

/s/ Philip L. Ellison

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CERTIFICATE OF SERVICE

I hereby certify that on date stated below, I filed the foregoing document with the ECF/CM system which will serve an email copy of the same to all counsel of record (at their email address of record) on the date stated below.

Date: September 18, 2018

RESPECTFULLY SUBMITTED:

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